

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY R. MARSH,)	
)	
Plaintiff,)	
)	Civil Action No. 3:24 - 130
vs.)	Judge Stephanie L. Haines
)	Magistrate Judge Maureen P. Kelly
PRIME CARE MEDICAL, INC., <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Presently before the Court is a civil rights claim pursuant to 42 U.S.C. § 1983 filed *pro se* by Timothy R. Marsh (“Plaintiff”). Plaintiff is a prisoner currently in the custody of SCI - Waymart. On June 7, 2024, Plaintiff submitted a Complaint (ECF No. 1) naming as defendants Prime Care Medical, Inc., Somerset County, the Pennsylvania Department of Health, Conemaugh Hospital, and six individuals (collectively “Defendants”). Attached to his Complaint was also a Motion for Appointment of Counsel (ECF No. 1-2). In his complaint, he alleges multiple constitutional violations under the 5th, 6th, 8th, and 14th amendments but failed to submit a filing fee or motion for leave to proceed *in forma pauperis*. This matter was referred to Magistrate Judge Maureen P. Kelly (“Magistrate Judge Kelly”) for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

On September 4, 2024, Magistrate Judge Kelly entered a Deficiency Order (ECF No. 5), directing Plaintiff to, *inter alia*, complete a motion to proceed *in forma pauperis* and to file an amended complaint that complied with Rule 8 of Federal Rules of Civil Procedure. The Deficiency Order contained detailed instructions for filing an amended complaint and a complaint form was sent to Plaintiff. In the interim, Plaintiff submitted two Motions for Leave to Proceed *In Forma*

Pauperis but failed to submit an amended complaint in both instances (ECF Nos. 6, 11). On November 27, 2024, the Court issued an Order to Show Cause why the case should not be dismissed for failure to prosecute and forwarded another blank form complaint to Plaintiff (ECF No. 12). Plaintiff's response was due on or before December 27, 2024. Plaintiff did not submit an amended complaint or respond in any way to the Show Cause Order.

On April 2, 2025, Magistrate Judge Kelly filed a Report and Recommendation ("R&R") (ECF No. 13) recommending that Plaintiff's claims be dismissed without prejudice for Plaintiff's failure to prosecute performing an evaluation under the *Poulis* factors. *See, Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863, 870 (3d Cir. 1984) (finding that the court must weigh these factors to "assure that the 'extreme' sanction of dismissal ... is reserved for the instances in which it is justly merited"). Plaintiff was advised that he had fourteen days to file a written objection to the R&R. 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. Plaintiff has not filed Objections and the period to do so has lapsed.

Upon review of the record and the R&R (ECF No. 13) under the applicable "reasoned consideration" standard, *see, EEOC v. City of Long Branch*, 866 F.3d 93, 210 (3d Cir. 2017), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Kelly in this matter. Magistrate Judge Kelly correctly determined Plaintiff's conduct weighs in favor of dismissal under the *Poulis* factors to sufficiently constitute failure to prosecute. *See, Poulis*, 747 F.2d at 870. Plaintiff has failed to pursue this action and, given the majority of the *Poulis* factors weigh in favor of dismissal, the Court will dismiss Plaintiff's action for failure to prosecute.

Accordingly, the following order is entered:

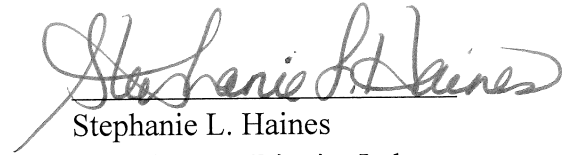
ORDER

AND NOW, this 10th day of June, 2025, IT IS ORDERED that Plaintiff's civil rights action pursuant to § 1983 (ECF No. 1) hereby is DISMISSED WITHOUT PREJUDICE; and,

IT IS FURTHER ORDERED that Motions for Leave to Proceed *in Forma Pauperis* (ECF Nos. 6, 11) are dismissed as moot; and

IT IS FURTHER ORDERED that Magistrate Judge Kelly's Report and Recommendation (ECF No. 13) is adopted as the Opinion of the Court; and

IT IS FURTHER ORDERED that the Clerk of Court is directed to mark this matter closed.


Stephanie L. Haines
United States District Judge

Cc: Timothy R. Marsh
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SCI Waymart
P.O. Box 256.
Waymart, PA 18472

Counsel for Defendants
(Via CM/ECF electronic mail)